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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,539	11/12/2003	Paul M. Sina	244-00128	6898
7590	11/30/2004		EXAMINER	
Joseph J. Jochman ANDRUS, SCEALES, STARKE & SAWALL, LLP Suite 1100 100 East Wisconsin Avenue Milwaukee, WI 53202-4178			PECHHOLD, ALEXANDRA K	
			ART UNIT	PAPER NUMBER
			3671	
DATE MAILED: 11/30/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/706,539	SINA, PAUL M. 	
	Examiner	Art Unit	
	Alexandra K Pechhold	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 12 November 2003.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) _____ is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) Claim(s) _____ is/are allowed.
6) Claim(s) 1, 2, 9,10,15,20 is/are rejected.
7) Claim(s) 3-8,11-14 and 16-19 is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date *filed 2/23/04*.
4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. *_____*.
5) Notice of Informal Patent Application (PTO-152)
6) Other: *_____*.

DETAILED ACTION

Claim Objections

1. Claim 15 is objected to because of the following informalities: it appears that in line 13 "operative" should be "operatively". Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Lindley et al (US 5,375,942).

Regarding claim 1, Lindley discloses a vibration isolation system for an engine-driven vibratory screed, including a blade, a vibratory exciter mechanism including the engine attached to the blade, and an operating handle frame connected to the exciter mechanism (all shown in Fig. 1), the improvement comprising:

- a bifurcated frame member (seen as frame 22) having a pair of arms (seen as arms 26) positioned to straddle the exciter mechanism (seen as weight 70) for attachment on laterally opposite sides thereof (see Fig. 1);
- an elastomeric vibration isolator (seen as vibration isolators 42 in Fig. 2) captured between each arm and a surface of the exciter mechanism, said isolator confirmed to limit vertical compressive movement and to permit

substantially greater horizontal shear movement, which will occur by the nature of their relative positioning; and

- a retainer (seen as legs 54 in Figs. 1 and 2) attached to one of the arms and the exciter (attached to the exciter in Lindley), said retainer adapted to engage the isolator to limit the amplitude of horizontal shear movement.

Regarding claim 2, wherein each arm includes an upper attachment surface (seen as the end 40 in Fig. 2); the opposite sides of the exciter mechanism are provided with mounting surfaces (along arms 54) disposed generally parallel to the upper attachment surfaces of said arms; and, said isolators are confined between said attachment surfaces and said mounting surfaces (as shown in Fig. 2).

Regarding claim 9, Lindley discloses rubber bushings in column 4, line 13.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lindley et al (US 5,375,942).** Lindley discloses rubber vibration absorbers (42), but fails to disclose the rubber material having a durometer of about 30. It would have been obvious to one having ordinary skill in the art at the time the invention was made to

modify the hardness of the rubber vibration absorbers of Lindley to be about 30 durometer hardness, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA).

6. Claims 15 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lindley et al (US 5,375,942) in view of Rouillard (US 6,296, 467).

Regarding claim 15, Lindley discloses the limitations of the claimed invention as discussed with regards to claim 1 above. Lindley also discloses an engine (18) operatively connected to the exciter mechanism, though Lindley fails to disclose the engine (18) supported on the exciter mechanism. Rouillard teaches a vibrating screed with an engine (14) supported on an exciter mechanism, seen as housing weight (26), as shown in Fig. 1. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the location of the engine of Lindley to be supported on the exciter mechanism as taught by Rouillard, since a location closer to the screed avoids impeding the operator's interaction with the handle.

Regarding claim 20, inherently the vibration absorbers (42) of Lindley will limit vertical compressive movement and permit substantially greater horizontal shear movement by the nature of their relative positioning.

Allowable Subject Matter

7. Claims 3-8, 11-14, and 16-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexandra Pechhold whose telephone number is (703) 305-0870. The examiner can normally be reached on Mon-Thurs. from 8:00am to 5:30pm and alternating Fridays from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703) 308-3870. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.



Thomas B. Will
Supervisory Patent Examiner
Group 3600

AKP
11/22/04